



MEETING MINUTES
Regular Meeting of the Edina Planning Commission
Wednesday, May 26, 2010, 7:00 PM
Edina City Hall Council Chambers

MEMBERS PRESENT:

Chair Mike Fischer, Jeff Carpenter, Julie Risser, Nancy Scherer, Kevin Staunton, Steve Brown, Floyd Grabel, Arlene Forrest and Karwehn Kata

STAFF PRESENT:

Cary Teague and Jackie Hoogenakker

I. APPROVAL OF THE MINUTES:

The minutes of the April 28, 2010, Planning Commission meeting were filed with a correction.

II. NEW BUSINESS:

2008.0004.10a	Final Development Plan Velmeir Companies/CVS Pharmacy 6905 York Avenue, Edina, MN
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Planner Presentation

Planner Teague informed the Commission Velmeir Companies on behalf of CVS Pharmacy is requesting to build a 13,000 square foot retail store with a drive-through facility on the vacant parcel at 6905 York Avenue.

Planner Teague reported in 2008, a Final Development Plan was approved for the site to build two retail buildings that totaled 18,000 square feet in size. The proposed plan is generally consistent with the previous plan with two exceptions:

1. The proposed plan calls for one 13,000 square foot building, rather than two buildings totalling 18,000 square feet.
2. The proposed plan calls for a drive-through facility. A condition of approval of the previous plan specifically prohibited drive-through facilities.

The request requires a revised Final Development Plan with building setback variances from 35 feet to 20 feet from York Avenue and 69th Street for the principal building and

from 35 feet to 31 feet for the canopy. The 20-foot setback variances requested were also approved as part of the previously approved plan.

Planner Teague delivered a power point report concluding that staff recommends that the City Council approve the Final Development Plan with Variances at 6905 York Avenue for Velmeir Companies on behalf of CVS Pharmacy based on the following findings:

- 1) With the exception of the variances requested, the proposal would meet the required standards and ordinances for a Final Development Plan.
- 2) Spack Consultants conducted a traffic impact study, and concluded that the existing roadway system could support the proposed project.
- 3) The proposal would meet the required standards for a variance, because:
 - a. The proposed use of the property is reasonable; as it would encourage ground level retail and service uses that create an active pedestrian and streetscape environment.
 - b. The intent of the ordinance is to encourage retail uses to create an active pedestrian and streetscape environment that can provide future pedestrian connections
 - c. The unique circumstance is the sites prominent location in close proximity to Southdale and the Galleria shopping areas. The city would like to encourage a more pedestrian environment in this area.
 - d. The building could be located on the site to meet the required setbacks; however, it would encourage parking in front of the building as parking stalls would be lost in the rear if the building met required setbacks.

Approval of the Final Development Plan and variances are subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan date stamped April 23, 2010.
 - Grading plan date stamped April 23, 2010.
 - Landscaping plan date stamped April 23, 2010.
 - Building elevations date stamped April 23, 2010.
- 2) A final landscape plan must be submitted and approved by staff prior to issuance of a building permit.
- 3) The property owner is responsible for replacing any required landscaping that dies.
- 4) Submit a copy of the Nine Mile Creek Watershed District permit. The city may require revisions to the approved plans to meet the district's requirements.

- 5) Submit a copy of the Hennepin County Access Permit which is required for the curb cut to York Avenue.
- 6) Compliance with the conditions required by the Transportation Commission.
- 7) Compliance with the conditions required by the city engineer in his memo dated May 20, 2010.

Appearing for the Applicant

Gordon Johnson, Kevin McGee and Michael Spack representing CVS.

Discussion

Commissioner Staunton asked Planner Teague if the proposal requires a rezoning. Planner Teague responded that the site is zoned PCD-3; no change in zoning designation is required.

Commissioner Kata asked Planner Teague if the parking count includes the adjacent parking for the apartment complex. Planner Teague responded that the apartment is self-parked.

Chair Fischer asked Planner Teague if there are cross-easements between the apartment complex and the CVS site. Planner Teague responded in the affirmative.

Applicant Presentation

Gordon Johnson, 3600 American Boulevard addressed the Commission and informed them in today's market drug stores require a drive-through window to remain competitive. Johnson pointed out that drive-through windows are a permitted use in the PCD-3 zoning district. Continuing, Johnson said that directional signage will be incorporated into the site to control traffic. Concluding, Johnson acknowledged that everyone appreciates the 50th & France Avenue streetscape, adding that in working closely with City staff they believe the proposed building placement creates a more pedestrian friendly atmosphere on this corner.

Kevin McGee, 7201 78th Street West, told the Commission CVS Pharmacy is proposing to construct a 13,000 square foot retail store, with drive-through facility. The project includes 90 customer parking stalls and a loading/unloading lane at the rear of the store. CVS also has a ground lease with the York West apartments directly to its east. The apartment complex was part of the original approved plan with the subject site earmarked for multi-tenant retail development. Mr. McGee said CVS is requesting the following:

1. Removal of the restriction against a drive-through facility; this condition was for the previous development of the site.

2. Retain the variance approving a 20 foot setback from York Ave and 69th Street. This variance was approved with the previous request to create a pedestrian feel.
3. Allow a new right turn out curb cut and a modification of the full access curb cut (both on 69th St West).

Discussion

Commissioner Grabiell in response to a comment from Mr. Johnson on the need for a drive-through pointed out that both Target and Cub Foods operate a pharmacy without a drive-through. Mr. McGee acknowledged that fact; however, he pointed out those stores are not strictly drug stores like a CVS is. Continuing, McGee said many people use drug stores with the drive-through option when they are sick or physically are not able to come into a store for one reason or another. McGee said their market research indicates that a drive-through window was key in the success of a drug store/pharmacy.

Commissioner Risser asked Mr. McGee the speed at which people drop off/pick up their prescriptions, pointing out vehicles are idling as they wait. Risser suggested asking customers to turn off their engines while waiting. McGee responded they have found that at most two vehicles are stacked waiting to drop off/pick up their prescription(s). McGee said the “stops” are usually very quick. McGee noted rarely would someone drop off and wait for their prescription to be filled. Concluding, McGee said CVS can consider the “engine off” suggestion. Commissioner Risser asked Mr. McGee if their market study took into consideration that there is a Walgreens Drug Store directly adjacent to this site. McGee responded that CVS came into the Minnesota market roughly a few years ago and the market studies indicated there was room for competition. He acknowledged he doesn’t know if the market study considered a drug store in such close proximity to a site. Concluding, McGee said in retail it’s always location, location, location.

Chair Fischer noted that on the schematics two “entrances” are illustrated; however, they appear different. Mr. McGee agreed, adding there is a “false entrance” at the corner of West 69th Street/York Avenue with the main entrance angled at the southwest corner of the building. The “doors” match but are different with the entrance off the parking lot. Chair Fischer asked Mr. McGee if the CVS drug stores are always built at the height depicted, adding he thinks the building is a bit too tall. Mr. McGee responded the buildings are proposed at this height to screen the mechanical. Chair Fischer asked if storm water tanks will be underground. McGee said the storm water system was installed to the rear of the site with the apartment complex.

Public Comments

Chair Fischer opened the public hearing.

Vivian Bauman, 6913 Xerxes Avenue, Richfield told the Commission she lives across from the new apartment building and since it’s been constructed she has lost her

sunlight and experienced an increase in traffic on Xerxes Avenue. Ms. Bauman reported that presently 800 + vehicles use Xerxes Avenue, adding she wants to make sure that traffic directional signs on the proposed CVS site do not direct traffic onto Xerxes Avenue. Ms. Bauman said she is also worried about on street parking if parking is compromised on the apartment and CVS site. Concluding, Ms. Bauman stated Xerxes Avenue already bears an incredible traffic burden and this proposal will only add to that.

Chair Fischer asked if anyone else would like to speak to the issue. Being none, Commissioner Brown moved to close the public hearing. Commissioner Staunton seconded the motion. All voted aye; public hearing closed.

Discussion

A discussion ensued on traffic flow, turn lanes, internal traffic circulation and the potential for traffic to spill onto Xerxes Avenue. Mr. McGee said signage is proposed to deter patrons from using Xerxes Avenue. Mr. Johnson added that vehicles going south on York Avenue can turn left on West 69th Street to access the site. Commissioner Forrest noted vehicles also have the option of a right turn onto 69th Street, and that option coupled with the right turn only for the drive-through would direct traffic to Xerxes. Commissioner Forrest said when approval was given to the previous project traffic flow onto Xerxes Avenue was an important consideration.

Commissioner Brown stated as proposed he cannot support the project. Brown said that in his opinion the internal traffic circulation on the site just doesn't work. Brown pointed out the site has multiple access points creating cross traffic especially because of the location of the drive-through. Brown said he has no problem with the variances that allow building placement up to the street; however, the internal vehicle circulation and drive-through location as designed is unsafe.

Commissioner Forrest said she agrees with Commissioner Brown reiterating that in her opinion right turn only for the drive-through would only funnel traffic back to Xerxes Avenue. Commissioner Forrest said she also has a concern with pedestrian patterns in the parking lot.

Mr. Spack told the Commission that in working with City staff on orienting the building closer to York and 69th streets impacted where the drive-through could be located. Continuing, Mr. Spack noted the exit onto West 69th Street allows both right and left hand turns. Mr. Spack said they are requesting that Hennepin County allow them to improve the curb cut on York Avenue with a larger right turn in/right turn out only configuration.

A discussion ensued on building placement and if the proposed location of the building actually creates a pedestrian friendly atmosphere or would pulling the building back into the site is better. Commissioners acknowledged the goal of creating a more pedestrian

friendly streetscape, questioning if this plan actually does that. It was noted that the façade along York Avenue while being close to the street doesn't achieve that goal. The majority of patrons would park in the parking lot and use the door on the south elevation. It was acknowledged that the previous plan was for multiple tenants not one.

Action/further Discussion

Commissioner Brown moved denial of 2008.0004.10a Final Development Plan for CVS Pharmacy. Commissioner Carpenter seconded the motion.

Planner Teague requested that the Commission issue findings to support the denial, or have the applicant revise the plan. Planner Teague said the Commission has to be cognizant of the 60-day rule.

Mr. McGee said CVS would be willing to table their request with some direction from the Commission, especially with drive-through placement.

Commissioner Brown reiterated that in his opinion the current location of the drive-through in the middle of the site just doesn't work. Brown suggested a north/south configuration. Mr. McGee responded if the drive-through is relocated north/south with a York Avenue exit the passenger side would face the drive-up window, not the driver's side; which is the ideal situation. Commissioner Carpenter acknowledged it appears the location of the drive-through is the stumbling block, adding the original goal was to achieve a pedestrian friendly site; however, the façade at the street doesn't accomplish that goal.

Commissioner Grabiell stated it may be possible to position the building in the southeast corner of the site. He added pedestrians do walk/cross etc. into parking lots all the time to enter/exit buildings.

Chair Fischer briefly explained to the applicant the history of the site and the vision the Planning Commission had for this corner. Fischer commented at this point the Commission may have to give up on their vision of "pedestrian friendliness" and review a typical development plan. Fischer acknowledged that the proponent did make efforts to create a more pedestrian friendly façade; however, in his opinion those efforts fell short. Fischer concluded that the proponent could bring back either scenario for review.

Commissioner Risser said she believes this site is a bit tricky for redevelopment.

Commissioner Grabiell asked Planner Teague what happens with a denial. Planner Teague said if the Commission denies the request the proponent could proceed with the request to the City Council for a vote or they could take time to review their options and bring a revised plan back to the Planning Commission.

Commissioner Staunton said the Commission should accord the applicant flexibility and allow them to decide if they want the proposal continued or denied. Mr. McGee responded that CVS would like the Commission to continue their request for Final Development Plan approval to the next meeting of the Commission.

Commissioner Brown withdrew his motion. Commissioner Carpenter withdrew his second.

Commissioner Staunton moved to continue item 2008.0004.10a to the June 30, 2010, Planning Commission meeting. Commissioner Grabiell seconded the motion, noting the applicant is agreeable to the continuance. All voted aye; motion carried.

III. COMMUNITY COMMENT:

Barbara Hoganson, 5829 Jeff Place, addressed the Commission and said she was interested in the continuing process of revising the Zoning Code and asked how one could participate. Chair Fischer explained that once a month the Planning Commission holds a work session to discuss topics. Chair Fischer said the public is welcome to attend all sessions, adding they are held the 2nd Wednesday of each month in the Council Chambers. Chair Fischer also suggested if anyone is interested in the re-write process to also sign up for City Extra which posts all meetings. Ms. Hoganson asked if the Commission was familiar with the latest Three Rivers 9-Mile Creek bike trail plan and that process. Chair Fischer responded that he isn't familiar with the plan or the process and asked Planner Teague if he was aware of the plan. Planner Teague responded that he believes Three Rivers is spearheading the project and directed Ms. Hoganson to contact the Park and Recreation Director, John Keprios for further information.

Susan Clark, 5812 61st Street West asked the steps developers take to seek approval from the Nine Mile creek watershed district. Ms. Clark said it appears to her that the watershed district hears a proposal after the City process is complete. Ms. Clark commented that in her opinion it would be better if the Planning Commission had "in hand" the watershed district input before they made their decision on a project. Planner Teague responded that it appears the policy of the Nine Mile Creek Watershed District is to hear an item after it has been through the City approval process, adding there wouldn't be an application if the project wasn't approved by the City. Chair Fischer commented that it appears there is no best answer.

IV. OTHER BUSINESS:

Planning Commission Bylaws

Commissioner Carpenter gave a brief bylaw/no bylaw history and introduced the members of the bylaw committee (Commissioner Carpenter, Brown and Grabel). Carpenter said their goal was to develop bylaws that reflect the way the Planning Commission operates, adding in a sense the bylaws are the operating procedures for the Planning Commission.

Carpenter asked Commissioners to comment and provide guidance on the draft bylaws. Carpenter went through sections of the bylaws.

The discussion focused on Sections 6. Meetings and the Open Meeting Law and 11. Ex Parte Communications.

Commissioner Carpenter said that all Commissioners from time to time have had conversations with residents by phone/e-mail or in person on various development/variance projects. Carpenter said the proposed bylaws will help Commissioners handle these communications. The goal of Sections 6 & 11 are to ensure that the process isn't tainted by violation of the open meeting laws and ex parte communication.

Commissioners felt more clarification needs to be made on the two different functions of the Commission the legislative and quasi-judicial. Would Commissioners be able to talk about the Comprehensive Plan and Zoning Code without concern that the open meeting and/or ex parte communication was being violated vs. discussing a proposal when an application has been received?

Commissioner Brown asked what the Commission felt was appropriate; zero tolerance or something in between.

The discussion continued with Chair Fischer stating that he believes it is important to maintain transparency, acknowledging it is unrealistic to prevent a resident etc. from approaching a Commissioner regarding a proposed development/redevelopment. Fischer said directing this type of communication to the meeting would be best. Commissioner Grabel agreed, adding information concerning a proposal should "come to light" at the meeting to be recorded as part of the official record. Grabel said what may need to happen is incorporate into the bylaws the distinction between the legislative and judicial. Chair Fischer agreed, suggesting that a definition be added.

Further discussion continued with Commissioners stating their communication between each other is important, valuable insight is shared, adding that more thought should be given to certain aspects of 6 & 11.

Commissioner Carpenter said he agrees with all comments; acknowledging there is difficulty in drawing the line. Carpenter said the Commission can “advance the ball” better if a line is created.

The discussion shifted to how to proceed when ex parte communication occurs. It was noted that any ex parte communication should be divulged at the public hearing; and if any ex parte communication caused a Commissioner to become biased that Commissioner should refrain from participation in the discussion and vote. Commissioner Staunton commented that in his opinion this clarification is important. A Commissioner should not be able to inadvertently advocate a position during the discussion and refrain from the vote. The Commissioner should refrain from all participation. Continuing, Commissioner Staunton said confidence in the process is important and all information should be available to everyone.

Chair Fischer thanked the bylaw committee for their hard work and said his intent this evening was to have the bylaws introduced. He directed Commissioners to e-mail their comments and suggestions on the proposed bylaws to Planner Teague who will forward comments/suggestions to Commissioner Carpenter.

V. INTERGOVERNMENTAL BUSINESS:

Chair Fischer said the Planning Commission will meet jointly with the City Council on June 1, 2010 at 4:30 pm. At this meeting the City Council will be updated on the progress of zoning ordinance rewrite process.

Chair Fischer asked if anyone attended the joint cities meeting of planning commissioners.

Commissioner Grabiell reported that he attended the joint meeting of planning commissioners, adding it was excellent as usual. Grabiell said much of the meeting centered on the Comprehensive Plan, adding that In Richfield’s Comprehensive Plan the Xerxes Avenue area (previously discussed) was designated as multi-residential, different from the single family homes present today. Continuing, Grabiell said Polly Bowles from the Metropolitan Council also spoke, adding it was fascinating to hear from her about what goes on in that establishment.

Chair Fischer recapped for the Commission that he hosted a 2 ½ hour bus tour of Edina for the International Architectural Committee, adding everyone was very impressed with Edina.

Commissioner Staunton reported that the CAT would also be meeting sometime in June.

ADJOURNMENT:

Commissioner Carpenter moved adjournment at 10:15 pm. Commissioner Risser seconded the motion. All voted aye; motion carried.

Respectfully Submitted:

Jackie Hoogenakker